

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 457 of 2008

Tuesday, this the 30th day of March, 2010

CORAM:

Hon'ble Mr. Justice K. Thankappan, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

K. Gopi, (Retired Postal Assistant),
Aged 60 years, S/o. Bharathan,
Puthan Veedu, Arrattupuzha North P.O.,
Trikkunnappuzha (Via), Alapuzha District.

.....

Applicant

(By Advocate – Mr. T.K. Vipin Das)

V e r s u s

1. Union of India, represented by its Secretary,
Ministry of Communications, New Delhi-1.
2. Postmaster General, Central Region, Kochi-682018.
3. The Superintendent of Post Offices, Mavelikkara
Division, Mavelikkara.
4. Controller of Defence Accounts,
Bangalore, Agram PO.

.....

Respondents

(By Advocate – Mr. Rajesh for Mr. Sunil Jacob Jose, SCGSC)

This application having been heard on 30.3.2010, the Tribunal on the same day delivered the following:

ORDER

By Hon'ble Mr. Justice K. Thankappan, Judicial Member -

The short question involved in this Original Application is that whether the applicant is entitled to count his military service for allowing his pension along with the service which he has in the Postal Department.



2. The few facts of the case are as follows:-

a) The applicant after having 8 years, 7 months and 16 days of military service and on discharge from the service, he joined the Postal Department as ED agent and subsequently he was absorbed as a regular departmental employee in the cadre of Postman. The applicant joined as Postman during 1990 as the applicant passed the departmental test for promotion to the post of Postal Assistant also.

b) As per Rule 19(1) of the Central Civil Services (Pension) Rules, 1972 the military discharged persons, in the event of joining in civil services is entitled to count the military service for calculating towards civil pension. Further as per Office Memorandum issued by the Department of Pension and Pensioners Welfare, Government of India in OM No. 28/29/93 PR PW(B) dated 23.5.1994 six months time is allowed to the discharged persons to exercise their option to take on their military service to the civil service. Hence, the applicant has already opted to civil service on the basis of the orders issued by the Government of India. He had remitted back the benefits which he received from the Military as per Annexure A-4 remittance certificate so as to enable him to claim the civil pension. After that the applicant has claimed for counting the military service also for the civil pension. It was not considered by the department on the ground that there was no entry either recorded in the service records or otherwise to show that the applicant had paid back the benefits which he received from military service. Under the above background the applicant



approached this Tribunal. The applicant has prayed in the Original Application to have a direction to the respondents to count his military service also enabling him to claim the civil pension.

3. The Original Application has been admitted by this Tribunal on 19.8.2008. In pursuance to the notice issued from this Tribunal a reply statement has been filed on behalf of the respondents. The stand taken in the reply statement is to the effect that the Controller of Defence Accounts, Bangalore is a necessary party in this OA and hence the applicant has also impleaded him and thereafter the Department had filed a detailed reply statement in which it is stated that they are not in possession of any details showing receipt of the re-payment made by the applicant. It is further stated that vide Annexure A-4 the applicant has remitted an amount of Rs. 3,525/- towards refund of terminal gratuity in response of the orders issued by the Governemnt of India and also as per Rule 19 of the Pension Rules. Further it is stated that though the payment was on non-banking treasury remittance, they have not received any receipt for the remittance. However, in the reply statement they have not denied the veracity of Annexure A-4.

4. We have heard the counsel appearing for the applicant Mr. T.K. Vipin Das and Mr. Rajesh for Mr. Sunil Jacob Jose, SCGSC, learned counsel appearing for the respondents and also we have perused the records. Admittedly the respondents have no case that Annexure A-4 receipt produced by the applicant is a bogus one. However, the only objection is that the said non-banking treasury remittance has not been received in their

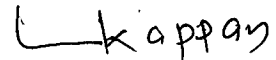


office nor any communication in this regard has been received from the applicant or from the postal authorities. Hence, comparing with the records there is no further evidence to show that the Annexure A-4 remittance has been done by the applicant or not. We are of ^{the} confirmed view that Annexure A-4 would prove that the applicant has already remitted the benefits which he received from the military on a challan and that is too on 7.3.1995 with treasury challan No. as 262. Hence, we have no hesitation to accept Annexure A-4 as the evidence for remittance of the benefits which the applicant received. Therefore, we are of the view that the applicant is entitled to count his military service for allowing his civil pension.

5. Accordingly, we allow this Original Application directing the respondents to pass appropriate orders in the claim of the applicant within a reasonable time at any rate within 3 months from the date of receipt of a copy of this order. There shall be no order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE K. THANKAPPAN)
JUDICIAL MEMBER

"SA"